

§ 35.13

requirements for the applicable export destination is surrendered to such carrier when such variety is so received. The shipper shall deliver a copy of such certificate covering the shipment to the export carrier. Such grapes may be inspected at points other than port of exportation. Whenever such grapes are inspected and certified at any point other than port of exportation, the shipper shall deliver a copy of such certificate to the agent of the first carrier that thereafter transports such grapes and such agent shall deliver such copy to the proper official of the carrier on which the grapes are to be exported.

(c) A copy of the Certificate of Inspection shall be filed by the export carrier for a period of not less than three (3) years following date of export.

(d) Persons exporting grapes under the provisions of section 2 of the Act shall first submit to the Federal or Federal-State Inspection Service a certification in duplicate stating the names and addresses of the contracting parties, the date of contract, the quantity of grapes to be delivered, the U.S. grade specified, the expected date of shipment, and the name and address of the export carrier. The certificate of inspection shall indicate that the grapes are eligible for export under section 2 of the Act.

(e) If the inspector has reason to believe that samples of a lot of any variety of vinifera species table grapes have been obtained for a determination as to compliance with tolerance for spray residue, established under the Federal Food, Drug and Cosmetic Act, as amended (52 Stat. 1040; 21 U.S.C. 301 *et seq.*), he shall not issue a certificate on the lot unless it complies with such tolerances.

[26 FR 8934, Sept. 22, 1961, as amended at 41 FR 32878, Aug. 6, 1976]

EXEMPTIONS

§ 35.13 Minimum quantity.

Any person may, without regard to the provisions of this part, ship or offer for shipment, and any carrier may, without regard to the provisions of this part, transport or receive for transportation to any foreign destination, a shipment of 25 packages or less of vinifera species table grapes, either a single

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variety or a combination of two or more varieties, not exceeding 1,250 pounds gross weight.

[41 FR 32878, Aug. 6, 1976]

WITHHOLDING CERTIFICATES

§ 35.14 Notice.

If the Secretary is considering withholding the issuance of certificates under the Act for a period of not exceeding 90 days to any person who ships, or offers for shipment, any variety of vinifera species table grapes to any foreign destination in violation of any provisions of the Act or this part, he shall cause notice to be given to the person accused of the nature of the charges against him and of the specific instances in which violation of the Act or the regulations in this part is charged.

[41 FR 32878, Aug. 6, 1976]

§ 35.15 Opportunity for hearing.

The person accused shall be entitled to a hearing, provided he makes written request therefor and files a written responsive answer to the charges made not later than 10 days after service of such notice upon him. The right to hearing shall be restricted to matters in issue. At such hearing, he shall have the right to be present in person or by counsel and to submit evidence and argument in his behalf. Failure to request a hearing within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him.

§ 35.16 Suspension of inspection.

Any order to withhold the issuance of a certificate, as provided in section 6 of the Act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary